



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MARIANO MORENO JR.,

Plaintiff,

-against-

NEW YORK CITY POLICE DEPARTMENT,

Defendant.
-----X

10 Civ. 6269 (DAB)
ADOPTION OF REPORT
AND RECOMMENDATION

DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the May 6, 2011 Report and Recommendation of United States Magistrate Judge Ronald L. Ellis (the "Report"). Judge Ellis recommends that the Motion for Summary Judgment filed by Defendant New York City Police Department (the "NYPD") be GRANTED because Plaintiff does not state a cognizable federal claim. (Report at 1). The Report further recommends that the Court decline to exercise supplemental jurisdiction over any state claims that may be construed from the Complaint. (Id.) Having conducted the appropriate level of review, the Court now ADOPTS, APPROVES, and RATIFIES the Report in its entirety.

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28

U.S.C. § 636(b)(1)(C). The district court may adopt those portions of the report to which no timely objection has been made, so long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003). "[F]ailure to object timely to a magistrate's report operates as a waiver of any further judicial review of the magistrate's decision." Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008) (quoting Small v. Sec. of HHS, 892 F.2d 15, 16 (2d Cir. 1989)). This rule applies to pro se parties so long as the magistrate's report "explicitly states that failure to object to the report within [fourteen (14)] days will preclude appellate review..." Small, 892 F.2d at 16.

Despite being advised of the procedure for filing objections and warned that failure to file objections would waive objections and preclude appellate review, see Report at 10-11, no Party filed objections to the Report.

This Court having reviewed the Report and having found no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED AND ADJUDGED that the Report and Recommendation of United States Magistrate Judge Ronald L. Ellis, dated May 6, 2011, be and the same hereby is APPROVED, ADOPTED, and RATIFIED in its entirety.

Because Plaintiff has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253; see United States v. Perez, 129 F.3d 255, 260 (2d Cir. 1997). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 8 L. Ed. 2d 21, 82 S. Ct. 917 (1962). The Clerk of the Court is directed to CLOSE the docket in this case.

SO ORDERED.

Dated: New York, New York

July 14, 2011

A handwritten signature in black ink, reading "Deborah A. Batts", is written over a horizontal line.

Deborah A. Batts
United States District Judge